

## Remarks/Arguments

### **Rejections under 35 U.S.C. § 103**

In the Office Action, the Examiner rejected claims 1-11, 15-25, and 29-31 under 35 U.S.C. § 103(a) as being unpatentable over U.S. Patent App. Pub. No. 2003/0087673 to Walton et al. ("*Walton*") in view of U.S. Patent App. Pub. No. 2005/0233760 to Voltolina et al. ("*Voltolina*"). Applicant respectfully requests reconsideration of this rejection for at least the following reasons.

As for claim 1, claim 1 currently recites:

A method, comprising:

operating in a multiple input, multiple output (MIMO) mode by a wireless network device of a wireless network, the wireless network including at least one transmitter device and a plurality of receiver devices, the wireless network device being one of the receiver devices; and

in the event of a predetermined condition, the wireless network device switching from operating in the MIMO mode to operating in a spatial division, multiple access (SDMA) mode.

In the Office Action, the Examiner in rejecting independent claim 1 (and independent claim 15) appears to allege that *Walton* teaches the features "operating in a multiple input, multiple output (MIMO) mode by a wireless network device of a wireless network, the wireless network including at least one transmitter device and a plurality of receiver devices, the wireless network device being one of the receiver devices," but acknowledges that *Walton* does not teach "in the event of a predetermined condition, the wireless network device switching from operating in the MIMO mode to operating in a spatial division, multiple access (SDMA) mode" as recited in claim 1. The Examiner further goes on to cite paragraph [0043] of *Voltolina* as teaching such features, and that it would have been obvious to one of ordinary skill in the art to have combined the teachings of *Walton* with the teachings of *Voltolina*. Applicant respectfully disagrees.

As cited by the Examiner, paragraph [0043] of *Voltolina* states in its entirety:

If the multicast group 60 has enough members, there will be a wish to use point-to-multipoint links for data distribution, in order to save resources. The UTRAN may, on a per cell basis, select

whether to use a point-to-point or a point-to-multipoint distribution of MBMS data. For instance, if more than a predetermined number of users are members of the multicast group **60** and using point-to-point distribution, a switch to point-to-multipoint distribution can be selected. Similarly, if less than a predetermined number of users are members of a multicast group **60** using a point-to-multipoint distribution, a switch to point-to-point distribution can be performed. The decision is preferably made by the CRNC of the cell in question.

In the Office Action, the Examiner appears to allege that because *Voltolina* in paragraph [0043] teaches that a network cell (i.e., a multicast group **60**) switches between a point-to-point distribution and a point-to-multipoint distribution, that a wireless network device (i.e., user equipment (UE) 50A) in the network cell will “in the event of a predetermined condition, the wireless network device switching from operating in the MIMO mode to operating in a spatial division, multiple access (SDMA) mode” as recited in claim 1. That is, the Examiner in the Office Action equates a point-to-point distribution and point-to-point distribution, as taught by *Voltolina*, to the MIMO and SDMA modes of operation as recited by claim 1. However, and as one skilled in the art will recognize, there are numerous ways to perform a point-to-point and a point-to-multipoint distribution in a wireless network including, for example, code division multiple access (CDMA), time division multiple access (TDMA), and so forth.

Further, there is no teaching or suggestion that the wireless network devices (i.e., UE 50A) of *Voltolina* are actually switching their modes of operation, such as between MIMO and SDMA as recited in claims 1 and 15, when the network cell (i.e., a multicast group **60**) switches between point-to-point distribution and point-to-multipoint distribution. For at least these reasons, claims 1 and 15 are patentable over *Walton* and *Voltolina* under 35 U.S.C. § 103(a).

Independent claims 7, 21, and 29 have similar features as claims 1 and 15 except that these claims calls for switching from SDMA to MIMO instead of the other way around. Thus, for at least the same reason that claims 1 and 15 are patentable over *Walton* in view of *Voltolina*, claims 7, 21, and 29 are likewise patentable over *Walton* in view of *Voltolina*.

Claims 2-6, 8-11, 16-20, 22-25, and 30-31 depend from independent claims 1, 7, 15, 21, and 29, incorporating their recitations. Thus, for at least the same reasons that claims 1, 7, 15, 21, and 29 are patentable over *Walton* in view of *Voltolina*, claims 2-6, 8-11, 16-20, 22-25, and 30-31 are likewise patentable over *Walton* in view of *Voltolina*.

### CONCLUSION

In view of the foregoing, Applicant respectfully submits that all pending claims are in condition for allowance. Early issuance of the Notice of Allowance is respectfully requested.

Please charge any shortages and credit any overages to Deposit Account No. 500393.

Respectfully submitted,  
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